

# National Park Service

U.S. Department of the Interior

Alaska Region

Office of Concessions



## Alaska Region Revocation Policy

*(Suspensions, Restrictions, Revocations and Denials)*

### Commercial Use Authorizations

**REGIONAL POLICY NUMBER 700-001**

**EFFECTIVE DATE: January 1, 2010**

**EXPIRATION DATE: December 31, 2011**

**SUBJECT:** Commercial Use Authorization Suspension, Restriction, Revocation and Denial Policy

**POINT OF CONTACT:** Associate Regional Director, Operations

**AUTHORITY:** Public Law 105-391, Section 418; 16 United States Code (USC) 1 and 3

**REFERENCE:** Not Applicable

**DELEGATION:** Superintendents

**PURPOSE:** This policy and procedure provides guidance to Alaska Park Managers when considering whether to suspend, restrict or revoke a Commercial Use Authorization (CUA) and when considering whether to approve an application for a future Commercial Use Authorization.

**PERMIT CONDITIONS/PROVISIONS RELATED TO TERMINATION OR REVOCATION:**

- Attachment A, Item #8: The CUA may be suspended or revoked upon breach of any of the conditions and/or stipulations or at the discretion of the park area Superintendent.

**POLICY:** This policy is intended to provide guidance regarding the actions to be taken in the event of a permittee violation (as defined in this policy). The Superintendent may take a different action than that called for in the policy at his or her discretion. The Superintendent also retains the authority to immediately suspend, restrict or revoke a CUA or deny a future CUA application at their discretion.

#### **Definitions**

## Definitions

- Holder/Owner - a sole proprietorship, partnership, limited partnership, joint venture, or corporation including corporate officers and those shareholders who have a controlling interest in a corporation, which has applied for or received a CUA.
- Employee - a person in the service of the Holder/Owner under any contract of hire, express or implied, oral or written, where the Holder/Owner has the power or right to control and direct the employee in the work performed.

## Violations

1. Failure to comply with state or federal law, regulation or administrative action where a link exists between the offense and the business activity authorized regardless of whether the violation occurred in a unit of the National Park System;
2. Violation of 18 U.S.C. 1001, providing false information to any agency or department of the United States;
3. Failure to comply with a federal or state health or safety code or regulation when conducting activities authorized by the CUA;
4. Failure to comply with the provisions and conditions of the CUA.

## Suspension, Restriction and Revocation

A CUA may be suspended, restricted, or revoked when the Holder/Owner or employee commits a violation as defined above. The Superintendent will determine the appropriate administrative action regarding the violation based on a totality of the circumstances, including consideration of prior relevant violations. The following table may be used as a general guideline that may be appropriate in some circumstances.

<b>VIOLATION</b>	<b>ACTION BY SUPERINTENDENT</b>
First Violation	A minimum of a written warning. May include a period of suspension or restriction of the CUA depending upon the violation.
Second Violation	Suspension or restriction of the CUA for a minimum of 30 days and up to a maximum of 120 days or revocation of the CUA depending upon the violation.
Third Violation	Revocation of the CUA.

## Process

If the Superintendent believes a Holder/Owner has committed a violation, the Superintendent or his/her designee shall:

1. Notify the authorization Holder/Owner of the violation, in writing, as soon as possible or appropriate. It is in the best interest of the National Park Service

and the Holder/Owner that the Holder/Owner be made aware of the violation and be given an opportunity to take corrective action to avoid future violations and provide any explanation of the circumstances that lead to the violation. Depending on the nature of the violation, the *company* (CUA Holder/Owner) may be charged with the crime. In other circumstances, it may be more appropriate for the *individual employee* to be charged. If an employee is charged with a violation (but not the company itself), the CUA Holder/Owner shall be notified. Notify the Alaska Region (AKR) Concessions Division. Regardless of who is charged, all direction outlined in this Revocation Policy may still apply.

2. Give the Holder/Owner an opportunity to explain the circumstances that led to the violation before taking final administration action at the park level. This does not preclude immediate suspension or restriction of the CUA when warranted.
3. If the Holder/Owner is authorized to operate in more than one park, notify the other parks and the AKR Concessions Division. A suspension, restriction, revocation or denial of a future CUA would likely apply to all services and parks authorized under the CUA. However, a more limited action may be appropriate, as circumstances warrant.
4. Notify the Holder/Owner of their right to appeal to the regional director. See appeal procedure below.

### **Appeal Process**

An appeal of the action may be made to the Regional Director. Such an appeal must be submitted in writing within 30 days of receipt of the decision. Appeals must set forth the facts and circumstances that the appellant believes support the appeal. The appellant may request an informal meeting to discuss the appeal with the Regional Director or his/her representative. After consideration of the materials submitted by the appellant and the National Park Service record of the matter, and meeting with the appellant if so requested, the Regional Director will affirm, reverse, or modify the decision appealed and will set forth in writing the basis of the decision. A copy of the decision will be forwarded to the appellant and will constitute the final administrative decision in the matter.

### **Denial of a CUA Application**

An application for a CUA may be denied if the Holder/Owner or any of the Holder/Owners current or proposed employees committed a violation, as defined above, within five years of the date of application. A Holder/Owner who has had a CUA revoked may be denied a new CUA for up to five years from the date of revocation.

**APPROVED:**

  
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Sue E. Masica, Regional Director  
Alaska Region